

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

AUTO-OWNERS INSURANCE COMPANY,

Civil Action No. 10-4067

Plaintiff,

vs.

ANSWER OF
DEFENDANT
EQUITY HOMES, INC.

EQUITY HOMES, INC.; FAIR HOUSING
OF THE DAKOTAS; AND THE UNITED
STATES OF AMERICA (DEPARTMENT
OF HOUSING AND URBAN
DEVELOPMENT),

Defendants.

Defendant Equity Homes, Inc., (“Equity Homes”) for its Answer to Plaintiff Auto-Owners Insurance Company’s (“Auto-Owners”) Complaint, states and alleges as follows:

1. Auto Owner’s Complaint fails to state a cause of action against Equity Homes upon which relief may be granted.

2. Equity Homes denies each and every thing, matter and allegation contained in Auto Owner’s Complaint, except such allegations as are specifically herein admitted or qualified.

3. With regard to the allegations in paragraph 1, Equity Homes admits that Auto-Owners seeks to bring this action pursuant to 28 U.S.C. §§2201 and 2202 and Rule 57 of the Federal Rules of Civil Procedure.

4. Equity Homes admits the allegations in paragraphs 4, 5, 6, 7, 8, 10 and 40.

5. Equity Homes lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs 14, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55 and 56.

6. With regard to the allegations in paragraph 2, Auto-Owners admits it is a South Dakota corporation with its principal place of business in Sioux Falls, South Dakota and as such a citizen of the State of South Dakota but Equity Homes currently lacks information sufficient to form a belief as to whether Auto-Owners is a citizen of a different state and whether the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. With regard to the allegations in paragraph 3, Equity Homes admits that a substantial part of the events giving rise to this claim occurred in South Dakota, but lacks the information sufficient to admit the remaining allegations of paragraph 3.

8. With regard to the allegations in paragraphs 9 and 13, Equity Homes admits only that such allegations were made in the HUD Litigation, but lacks information sufficient to form a belief as to the truth or falsity of such allegations.

9. With regard to the allegations in paragraphs 11 and 12, Equity Homes admits only that such allegations were made in the HUD Litigation, but denies that such allegations are true.

10. With regard to the allegation in paragraphs 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38 and 39, such allegations purport to quote portions of Auto Owner's policies issued to Equity Homes. Equity Homes admits the terms of the policies speak for themselves and denies all remaining allegations in such paragraphs.

11. Equity Homes specifically denies the allegations in paragraphs 57 and 58.

12. Equity Homes denies the nature and extent of any damages alleged by Auto-Owners and remits Plaintiff to its strict proof thereof.

13. Equity Homes affirmatively alleges that Auto-Owners claims are barred by the applicable statute of limitations.

14. Equity Homes affirmatively alleges that some or all of the claims against Equity Homes as alleged in the HUD Litigation were proximately caused by subcontractors or third parties who Equity Homes have no control over.

WHEREFORE, Equity Homes requests that Judgment be entered by the Court as follows:

1. That Auto-Owners' claim against Equity Homes be dismissed with prejudice; and
2. That Equity Homes be awarded its costs and disbursement, including reasonable attorney's fees, as may be provide by statute; and
3. For such other and further relief as the Court deems just and proper.

Dated this 14th day of July, 2010.

MOORE, RASMUSSEN, KADING & KUNSTLE, LLP

/s/ Stephanie R. Amiotte

Stephanie R. Amiotte

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DEFENDANT EQUITY HOMES, INC. DEMANDS TRIAL BY JURY.

CERTIFICATE OF SERVICE

I, Stephanie R. Amiotte, one of the Attorneys for Defendant Equity Homes, Inc., hereby certify that I submitted via electronic filing with the Clerk of Court a correct copy of the Answer of Equity Homes, Inc. to the Complaint of Plaintiff Auto-Owners Insurance Company for service upon Jack H. Hieb, attorney for Plaintiff, at his e-mail address of jhieb@rwwsh.com, this 14th day of July, 2010.

/s/Stephanie R. Amiotte

Stephanie R. Amiotte